

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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In the Matter of )

PP Docket 93-253

Implementation of Section 309(j) of the )  
Communications Act -- Competitive Bidding )  
\_\_\_\_\_ )

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OFFICE OF SECRETARY

**COMMENTS OF AMERICAN WOMEN IN RADIO AND TELEVISION, INC.  
IN SUPPORT OF TEC'S EMERGENCY PETITION FOR A WAIVER**

Pursuant to the Commission's Public Notice of March 29, 1995, DA 95-651, American Women in Radio and Television, Inc. ("AWRT") hereby files these comments in support of the grant of a limited waiver to Telephone Electronics Corporation ("TEC"). AWRT is a non-profit, national organization of professionals in radio, television, cable, advertising and closely allied fields with chapters throughout the United States. AWRT's mission is to enhance the impact of women in the electronic media and allied fields by educating, advocating and acting as a resource to its members and the industry. AWRT has been an active participant in this docket and an advocate for the adoption of rules that provide a realistic opportunity for women-owned businesses to participate in the auction of PCS licenses. The Commission's rules for the entrepreneurs' blocks provide valuable incentives for investment in women-owned businesses seeking to bid for PCS and appropriately recognize the differing barriers faced by women in raising the capital necessary to enter the PCS industry.

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## **I. Delay of The C Block Auctions Will Hinder Competition in PCS.**

AWRT supports grant of TEC's Emergency Petition for Waiver (the "*Petition*") because it is limited in scope and will permit the C block auction to proceed without additional delay. Prompt rescheduling of the C block auction is essential to minimize the time lag between the issuance of A, B and C block licenses. The C block auction must begin soon if the Commission is to achieve its goal of promoting a healthy and competitive broadband PCS market with multiple viable competitors, including smaller businesses and businesses owned by women and minorities. Further delay in the C block auction threatens the viability of women-owned PCS businesses and other entrepreneurs' block bidders, even those that succeed at the auction. Specifically, delay of the C block auction will extend the headstart already afforded the A and B block winners and will strengthen their inherent and significant competitive advantage in rolling out PCS services and capturing the PCS market. Grant of TEC's *Petition* will minimize the damage already inflicted on C block aspirants from the stay of the auction and permit the prompt rescheduling of the C block auction.

## **II. The Limited Nature of TEC's Request Makes Grant of The Waiver Appropriate.**

The limited nature of the *Petition* supports grant of the limited waiver sought by TEC. In its *Petition*, TEC requests a waiver of the consolidation of the revenues of its long distance resale affiliates in order to bid in the C and F block PCS auctions on only eight Basic Trading Area ("BTA") licenses. In each of the eight BTAs, TEC's affiliates currently serve populations of less than 300,000. In addition, TEC meets the definition of a rural telephone and a small telephone company. Significantly, TEC has not requested a wholesale waiver of the \$125 million revenue cap for participation in the entrepreneurs' block for all

bidders nor has TEC requested a wavier beyond the eight specified BTAs. The *Petition* is appropriately limited. Removal of the revenue cap in its entirety for all bidders or for ineligible bidders other than TEC would not be appropriate and would undermine the very goals of broad participation in the auctions set forth by Congress in the Omnibus Budget Reconciliation Act of 1993 (the "Budget Act") and implemented by the Commission through creation of the entrepreneurs' block.

A limited waiver of the revenue cap for TEC also is appropriate because TEC qualifies in all respects for participation in the entrepreneurs' block as a small business except for the inclusion of its long distance resale affiliates. Based on TEC's representation that it does not, and cannot, cross pool its resources with its non-regulated affiliates and that the profit margin from its resale affiliates is small, the combined revenues of all the TEC companies do not pose a significant threat of largess that could stifle bidding in the entrepreneurs' blocks or dwarf the participation by women-owned companies. Accordingly, AWRP supports the issuance of a waiver to permit TEC to participate in the C and F block auctions in the eight BTAs specified by TEC in its *Petition*.

### **III. Preservation of The Current Bidding Rules Is Critical for Women-Owned Businesses and Supported By The Record.**

Preservation of the entrepreneurs' block and the specific rules for women-owned businesses is critical to fulfill Congress' mandate for the wide dissemination of licenses by competitive bidding and provide women-owned businesses a realistic *opportunity* to participate in PCS. The Commission's rules do not provide a guaranty that women or minorities or any other bidders will actually win PCS licenses. The rules merely provide the

*opportunity* for participation. Accordingly, recent efforts to label the entrepreneurs' block and the Commission's incentives for women and minority owned businesses as a set aside are inaccurate. Furthermore, the incentives provided in the Commission's rules for participation by women and minority-owned businesses in the PCS auctions are an appropriate response to Congress' directive in the Budget Act and to the barriers faced by women in raising capital and acquiring controlling ownership interests in communications companies. As recognized by the Commission in the *Fifth Report and Order* in this docket, women are significantly under-represented in ownership of communications businesses and face significant barriers in obtaining access to capital.<sup>1</sup> These findings support the adoption of rules targeted towards increasing the incentives for investment in women-owned businesses and reducing the initial capital requirements for women-owned businesses seeking to become PCS licensees.

Recent evidence continues to substantiate the direct need to provide incentives to women-owned businesses to remedy the barriers they face in entry into the communications industry. Significantly, on the same day the U.S. Court of Appeals for the D.C. Circuit granted TEC's Motion for a Stay which challenged the Commission's rules for women-owned companies, a report released by the Federal Glass Ceiling Commission documented the continued under-representation of women in corporate management positions. The study revealed that only 5% of the *top* management positions at Fortune 2000 industry and service companies are held by women.<sup>2</sup> In the utility industry, women were found to hold only 20% of *all* managerial positions. These statistics demonstrate once again the continued

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<sup>1</sup> *Fifth Report and Order*, 9 FCC Rcd 5532, ¶ 102 (1994).

<sup>2</sup> See *Glass Ceiling Firmly In Place, Panel Finds*, *Wash. Post*, March 16, 1995 at A.1.

barriers faced by women in reaching senior management positions in large companies and the barriers women face in capital intensive industries such as the utility industry.

Statistics also continue to document the barriers women face in raising capital. These barriers have restricted ownership by women of businesses in capital intensive industries such as telecommunications. In 1993, it was reported that women-owned companies received only about 1% of the \$3 billion invested by venture capitalists -- a major source of financing for PCS ventures in the entrepreneurs block.<sup>3</sup> More recently, the Commission recognized the unique difficulties faced by women in raising capital documented by the National Foundation for Women Business Owners.<sup>4</sup> The record evidence -- that continues to be substantiated by additional studies -- fully supports the Commission's competitive bidding PCS rules for women-owned businesses.

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<sup>3</sup> The key role of venture capitalists in funding PCS was demonstrated by the Commission's decision to permit institutional investors including venture capitalists to hold their ownership interest in the control group. See *Fifth Memorandum Opinion and Order*, 10 FCC Rcd 403, 439-440, n. 162 (1994).

<sup>4</sup> See *In the Matter of Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*, Notice of Proposed Rulemaking, FCC 94-324 at ¶ 13 (rel. January 12, 1995), citing findings of National Foundation for Women Business Owners' Membership Survey.

WHEREFORE, AWRT urges the Commission to grant TEC a limited waiver and to promptly reschedule the C block auction.

Respectfully submitted,

AMERICAN WOMEN IN RADIO AND TELEVISION, INC.

A handwritten signature in cursive script, reading "Shelley L. Spencer", is written over a horizontal line.

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April 3, 1995

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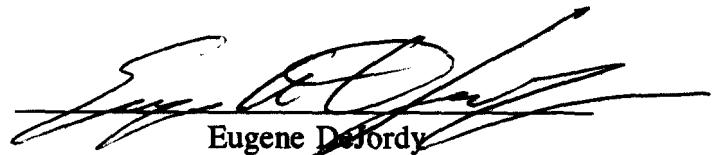
I, Eugene DeJordy, hereby certify that an original and nine copies of the foregoing Comments of American Women in Radio and Television, Inc. In Support of TEC's Emergency Petition for Waiver were filed with Mr. William Caton, Acting Secretary of the Federal Communications Commission, and that copies of the foregoing were served by hand this 3rd day of April, 1995 on:

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